

**IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA**

**Criminal Appeal No.276 of 2000.**

**Date of decision: 31.7.2007**

---

**State of H.P.**

**..Appellant**

**Versus**

**Hitender Singh**

**..Respondent**

---

*Coram*

**The Hon'ble Mr. Justice Surjit Singh, J.**

*Whether approved for reporting ?<sup>1</sup>. No.*

**For the Appellant : Mr. M.L. Chauhan, Addl. A.G.**

**For the respondent: Mr. Ramakant Sharma, Advocate.**

---

**Surjit Singh, J. (oral)**

Heard and gone through the record.

2. Respondent was sent up for trial for offences under Sections 341, 323, 325, 504 and 506 I.P.C. for allegedly wrongfully restraining Om Parkash, PW-3, when the latter was going towards village Kandyana from Ludhiana and also for voluntarily causing hurt and grievous hurt to him and then intimidating him and also insulting him. Trial Court has acquitted the respondent.

3. Learned Additional Advocate General has taken me through the entire evidence led by the prosecution and submitted that the testimony of the injured, namely Om Parkash, PW-3, is corroborated by medico legal evidence in the form of testimony of PW-1 Dr. S. Tarafdar and PW-2 Dr. Neerja, Dental Surgeon and the testimony of three eye witnesses, namely Kundia Ram (PW-4), Mela Ram (PW-6) and Ravinder Singh (PW-7).

4. It is true that Om Parkash (PW-3) says that he was assaulted and dealt a blow on his mouth resulting in the fracture and consequently fall

---

<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgement?*

of one of the upper incisors and his testimony is corroborated by the above named three witnesses, but it has come in the cross-examination of the injured, as also the above named three witnesses that the parties are not having good relations owing to election rivalry. Not only the injured, but the three witnesses who have corroborated the testimony of the injured, are also having acrimonious relations with the respondent because of elections rivalry.

5. The medico legal evidence, however, does not fully corroborate the version of the injured. The incident is alleged to have taken place at 10.30 a.m. on 29.12.1999. PW-1 Dr. S. Tarafdar has stated that the bleeding injury, which was on the gum at the site of fractured and fallen tooth, had been sustained between six to eight hours. However, as already noticed, the injured was examined by him before the lapse of six hours or say exactly after five hours. The other doctor, namely, Dr. Neerja, Dental Surgeon (PW-2), has stated that the duration of the injury to the tooth was two to three hours. She examined the dental injury after the medico legal examination was conducted by PW-1. Thus, her statement also runs contrary to the time of incident testified by the injured.

6. Neither of the two doctors noticed any injury on the lips of the injured. The prosecution case, as per testimony of the injured, is that he was given a fist blow on his mouth and that caused fracture and fall of tooth. Now, if the fist blow was given on the mouth resulting in fracture and fall of tooth, some injury mark was bound to appear on the lips and the surrounding area.

In view of the above stated position, the view taken by the trial Court cannot be said to be perverse calling for interference in the judgment of acquittal. Hence, the appeal is dismissed.

July 31, 2007(ss)

**(Surjit Singh), J**